POLICY NOTE

THE REPRESENTATION OF THE PEOPLE (ABSENT VOTING AT LOCAL GOVERNMENT ELECTIONS) (SCOTLAND) AMENDMENT REGULATIONS 2026

SSI 2026/251

The above instrument was made in exercise of the powers conferred by sections 22(3), 33 and 61(2) of the Local Electoral Administration and Registration Services (Scotland) Act 2006 and all other powers enabling the Scottish Ministers to do so.

The instrument is subject to *negative procedure*.

Summary Box

Purpose of the instrument.

These Regulations update the Representation of the People (Absent Voting at Local Government Elections) (Scotland) Regulations 2007. They make provision to allow an application for an emergency proxy to be made where the applicant cannot vote in person at the election because they will be accompanying another person who will be receiving medical care or treatment. They also set a specific date, each year, by when Electoral Registration Officers must send a notice requiring any absent voter whose signature is more than 5 years old to provide a new signature. The emergency proxy change will apply to all Scottish Parliament elections which take place on or after 6 May 2027 and the signature refresh will come into force on 13 November 2026.

Policy Objectives

1. The purpose of this instrument is to amend the Representation of the People (Absent Voting at Local Government Elections) (Scotland) Regulations 2007 (the "2007 Regulations") to reflect changes to the rules and procedures for the running of Local Government elections in Scotland. The changes are set out in more detail below.

2. In terms of section 5 of the Local Government etc. (Scotland) Act 1994 (as amended by the Scottish Elections (Dates) Act 2016), the next ordinary Local Government election is scheduled to take place on 6 May 2027.

3. If approved, regulation 3 will apply to any election for which the date of the poll is on or after 6 May 2027, whilst regulation 4 will apply from 13 November 2026.

4. Most of the rules which governed the running of absent voting at the ordinary local government general election held in May 2022 will remain the same, however this instrument makes two changes which reflect developments since the last election.

5. In addition to these Regulations, the Scottish Local Government Elections Amendment Order 2026, the Scottish Local Government Elections (Election Agents, Expenses and Publication of Information) Amendment Order 2026 and the Representation of the People (Postal Voting for Local Government Elections) (Scotland) Amendment Regulations

2026 will make further changes to the rules for the running of local government elections in Scotland.

6. The changes set out in these Regulations are as follows:

Emergency application to vote by proxy at a particular election
(Regulation 3)

7. The Electoral Commission and Electoral Registration Officers asked the Scottish Government to consider expanding the categories of voters who are entitled to apply for an emergency proxy to include those who find themselves unable to vote in person, because they are acting as a companion for someone who needs to be accompanied to an unplanned medical appointment. In particular, this affects those who care for young or older people. This policy change was discussed in the Electoral Reform Consultation (see Consultation section) and was supported by 61% of respondents, including 100% of organisations. It was adopted in 2025 in respect of Scottish Parliament elections[1].

8. This regulation therefore amends regulation 10 of the 2007 Regulations to allow anyone who cannot vote at Scottish local government elections in person, due to them accompanying another person to attend medical care or treatment, to apply for an emergency proxy vote. The person requesting a proxy must state the reasons why they were unable to make the application before 5 pm on the sixth day before the date of the poll. Applications must be attested and signed by a person who is aged 16 years or over, knows the applicant, and is not related to the applicant.

9. The change made in 2025 in relation to Scottish Parliament elections required the attestor to state the reasons why the applicant was unable to make the application before 5 pm on the sixth day before the date of the poll. Discussion with the Electoral Commission has resulted in the conclusion that it would be more logical for the applicant to provide this explanation and that is therefore required by these Regulations. The Government has taken a note of the need to update the equivalent provisions for Scottish Parliament elections accordingly.

10. As for other emergency proxy applications, the deadline for applications will be 5pm on the date of the poll.

Requirement to provide fresh signatures
(Regulation 4)

11. Regulation 15A of the 2007 Regulations sets out that an Electoral Registration Officer may send a notice, in writing, to any absent voter whose signature is more than 5 years old requiring them to provide a fresh signature.

12. This Regulation brings the position for local government elections into line with the existing position for Scottish and UK parliamentary elections by setting a specific deadline by when these notices must be sent. This will standardise the position for refreshment of signatures at Scottish and UK Parliamentary and local government elections.

[1] See Article 15: https://www.legislation.gov.uk/ssi/2025/313/pdfs/ssipn_20250313_en_001.pdf

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

13. The Scottish Ministers have made the following statement regarding children's rights.

> In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, the Representation of the People (Absent Voting at Local Government Elections) (Scotland) Amendment Regulations 2026 are compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

14. This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

15. The Scottish Government's Electoral Reform Consultation ran between 14 December 2022 and 15 March 2023. The consultation requested views on a number of issues, including proxy voting for carers.

16. 517 responses to the consultation were received, 94% from individuals, and 6% from organisations. The Scottish Government published an independent analysis of the consultation on 31 July 2023. Copies of the consultation, responses and the analysis are available on the Scottish Government's website.

17. Electoral Administrators, including returning officers and Electoral Registration Officers, and other external stakeholders have been involved in discussions on relevant aspects of these Regulations.

18. As well as the general consultations, the following bodies and stakeholders were specifically consulted during the finalisation of the draft Regulations:

- Electoral Commission
- Electoral Management Board for Scotland
- Association of Electoral Administrators
- Electoral Registration Committee of the Scottish Assessors Association
- COSLA
- Scottish Parliament Political Parties Panel
- Scottish Parliament officials
- The Information Commissioner

19. The responses to these consultations have helped informed the content of these Regulations.

20. The Electoral Commission were consulted during the drafting of these Regulations.

Impact Assessments

21. The Scottish Government has prepared a Child Rights and Wellbeing Impact Assessment (CRWIA). The CRWIA concludes that the overall impact of these Regulations on children's rights is both positive and neutral.

22. An Equalities Impact Assessment (EQIA) has been prepared, outlining the impacts on groups with protected characteristics. There is minimal differential impact on these groups, and where there are differences, the EQIA finds that there is a positive impact.

23. These Regulations make some amendments relating to processing of data in an electoral context. Electoral Registration Officers continue to be data controllers of the electoral register and related data, and the changes made in these Regulations ensure that the data collected is consistent with existing practice. Scottish Government have consulted the Information Commissioner on these changes, and no concerns have been raised to date. A Data Protection Impact Assessment (DPIA) has not been completed as there will be no change to the data held by the Scottish Government because of these Regulations.

24. The Scottish Government view is that these Regulations have no significant impact on data protection, the environment, fairness; island communities and therefore no impact assessments are required for those areas.

Business and Regulatory Impact Assessment (BRIA)

25. The Minister for Parliamentary Business confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Financial Implications

26. Local authorities are responsible for meeting the cost of Local Government elections from within their overall budget. These Regulations are not expected to result in any significant increased costs.

Scottish Government
Directorate for Constitution

September 2026